

Bronx County Civil Court
Civil JudgmentPlaintiff(s):
Bronx Martial Arts Academy

vs.

Defendant(s):
Howard White

Index Number: CV-042508-11/BX

Judgment issued: On Default

On Motion of:

Kavulich & Associates, P.C.
181 Westchester Avenue, Suite 500C, Port
Chester, NY 10573-

Amount claimed	\$705.00	Index Number Fee	\$45.00	Transcript Fee	\$0.00
Less Payments made	\$0.00	Consumer Credit Fee	\$0.00	County Clerk Fee	\$0.00
Less Counterclaim Offset	\$0.00	Service Fee	\$25.00	Enforcement Fee	\$40.00
Interest 02/01/2010 at 9%	\$109.87	Non-Military Fee	\$0.00	Other Disbursements	\$0.00
Attorney Fees	\$0.00	Notice of Trial Fee	\$0.00	Other Costs	\$0.00
Cost By Statute	\$20.00	Jury Demand Fee	\$0.00		
Total Damages	\$814.87	Total Costs & Disbursements	\$130.00	Judgment Total	\$944.87

The following named parties, addressed and identified as creditors below:

Plaintiff creditor(s) and address

(1) Bronx Martial Arts Academy
1051 Allerton Avenue, Bronx, NY 10469-

Shall recover of the following parties, addresses and identified as debtors below:

Defendant debtor(s) and address

(1) Howard White
3208 Tenbroeck Avenue, Bronx, NY 10469-Judgment entered at the Bronx County Civil Court, 851 Grand Concourse, Bronx, NY 10451, in the STATE OF NEW YORK
in the total amount of **\$944.87** on **10/27/2011** at **11:16 AM**.

 CHIEF CLERK

Judgment sequence 1

Carol Alt, Chief Clerk Civil Court

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

INDEX NO. 42508/11
FILE NO. 14172

-----X
BRONX MARTIAL ARTS ACADEMY,

JUDGMENT

PLAINTIFF(S)

-AGAINST-

HOWARD WHITE,

DEFENDANT(S)

AMOUNT CLAIMED LESS PMTS ON ACCT.
INTEREST FROM 02/01/10

\$705.00
\$105.75
\$810.75

COSTS BY STATUTE \$20.00
SERVICE OF SUMMONS AND COMPLAINT \$25.00
FILING OF SUMMONS AND COMPLAINT \$45.00
PROSPECTIVE MARSHALL'S FEE \$40.00
NOTICE OF INQUEST \$0.00

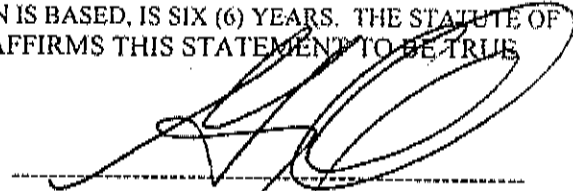
\$130.00
\$940.75

TOTAL:

STATE OF NEW YORK, COUNTY OF WESTCHESTER:

THE UNDERSIGNED, ATTORNEY AT LAW OF THE STATE OF NEW YORK, ON OF THE ATTORNEY(S) OF RECORD FOR THE PLAINTIFF(S) IN THE ABOVE ENTITLED ACTION, STATES THAT THE DISBURSEMENTS ABOVE SPECIFIED HAVE BEEN OR WILL NECESSARILY BE MADE OR INCURRED THEREIN AND ARE REASONABLE IN AMOUNT: THAT THE TIME OF THE DEFENDANT TO ANSWER, THE TIME OF THE DEFENDANT TO APPEAR AND ANSWER HEREIN HAS EXPIRED AND THAT SAID DEFENDANT HAS NOT APPEARED AND ANSWERED HEREIN. THE CAUSE OF ACTION IN THE WITHIN MATTER ACCRUED IN THE STATE OF NEW YORK WHERE THE STATUTE OF LIMITATIONS ON A CONTRACT, UPON WHICH THE ACTION IS BASED, IS SIX (6) YEARS. THE STATUTE OF LIMITATIONS HAS NOT EXPIRED. THE UNDERSIGNED AFFIRMS THIS STATEMENT TO BE TRUE UNDER THE PENALTIES OF PERJURY.

DATED: WESTCHESTER, NY
OCTOBER 20, 2011



KAVULICH & ASSOCIATES, P.C.
BY: GARY KAVULICH, ESQ.

JUDGMENT ENTERED ON
SERVICE OF SUMMONS AND COMPLAINT IN THIS ACTION ON THE DEFENDANT(S)
HEREIN HAVING BEEN COMPLETED ON AUGUST 24, 2011
BY FILING OF SAID DAY OF PROOF OF THE SERVICE THEREOF BY SUBSTITUED SERVICE ON
DEFENDANT(S) AND MORE THAN 30 DAYS HAVING ELAPSED SINCE THE DAY OF COMPLETION
OF SERVICE AND THE TIME OF SAID DEFENDANT(S) TO APPEAR AND ANSWER HAVING EXPIRED.

NOW ON MOTION OF KAVULICH & ASSOCIATES, P.C. ATTORNEY(S) FOR THE PLAINTIFF(S) IT IS,
ADJUDGED THAT
BRONX MARTIAL ARTS ACADEMY,
RESIDING AT: 1051 ALLERTON AVENUE, BRONX, NY 10469
RECOVER OF: HOWARD WHITE,
RESIDING AT: 3208 TENBROECK AVENUE, PH, BRONX, NY 10469-5011
THE SUM OF \$705.00 WITH INTEREST OF \$105.75 MAKING A TOTAL OF \$810.75 TOGETHER
WITH \$130.00 COSTS AND DISBURSEMENTS, AMOUNTING IN ALL TO THE SUM OF \$940.75 AND
THAT PLAINTIFF HAVE EXECUTION THEREFORE.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
BRONX MARTIAL ARTS ACADEMY,
PLAINTIFF(S)

AGAINST

HOWARD WHITE,

DEFENDANT(S)
-----X

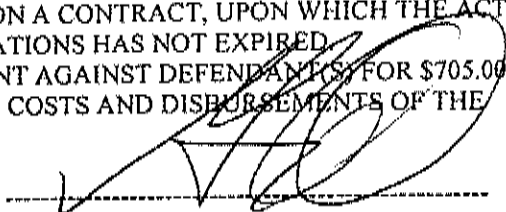
AFFIDAVIT OF FACTS
CONSTITUTING THE CLAIM
THE DEFAULT AND THE
AMOUNT DUE

STATE OF NEW YORK COUNTY OF WESTCHESTER

SS: GARY KAVULICH, ESQ. HEREBY DEPOSES AND SAYS UNDER THE PENALTIES OF PURJURY, THAT DEPONENT IS ONE OF THE ATTORNEYS FOR THE PLAINTIFF(S) IN THE WITHIN ACTION; THIS ACTION WAS COMMENCED BY SUBSTITUTED SERVICE OF THE SUMMONS AND COMPLAINT UPON DEFENDANT(S) AND IS AN ACTION FOR BREACH OF AN AGREEMENT FOR GOOD AND SERVICES PROVIDED BY PLAINTIFF TO DEFENDANT, DUE AND OWING (AFTER APPLICATION OF PAYMENTS) IN THE SUM OF \$705.000

ALL OTHER CAUSES OF ACTION ARE HEREBY WAIVED AND DISPOSED. AFTER A COMPLETE AND THOROUGH INVESTIGATION THE DEFENDANT IS FOUND NOT TO BE IN THE MILITARY AND RESIDES WITHIN THE CITY OF NEW YORK. RENT WAS NOT PAID BY ANY OTHER SOURCE. I MAKE THIS AFFIRMATION UPON INFORMATION AND BELIEF, A BELIEF PREDICATED UPON CONVERSATIONS WITH MY CLIENT, MY INVOLVEMENT IN THE PROCEEDING AND READING THE FILE IN THIS CASE. THE CAUSE OF ACTION IN THE WITHIN MATTER ACCRUED IN THE STATE OF NEW YORK WHERE THE STATUTE OF LIMITATIONS ON A CONTRACT, UPON WHICH THE ACTION IS BASED, IS SIX (6) YEARS. THE STATUTE OF LIMITATIONS HAS NOT EXPIRED.

WHEREFORE DEPONENT DEMANDS JUDGMENT AGAINST DEFENDANT(S) FOR \$705.00 WITH INTEREST FROM FEBRUARY 1, 2010 TOGETHER WITH COSTS AND DISBURSEMENTS OF THE ACTION.



KAVULICH & ASSOCIATES, P.C.
BY: GARY KAVULICH, ESQ.

TO THE DEFENDANT(S): PLEASE TAKE NOTICE THAT THE WITHIN IS A TRUE COPY OF A JUDGMENT MADE AND ENTERED IN THE WITHIN ENTITLED ACTION AND DULY FILED IN THE OFFICE OF THE CLERK OF THE COUNT ON

DATED: WESTCHESTER, NY
OCTOBER 20, 2011

YOURS, ETC.,
ATTORNEYS FOR PLAINTIFF

STATE OF NEW YORK, COUNTY OF SS:
BEING DULY SWORN, DEPOSES AND SAYS; THAT DEPONENT IS NOT A PARTY TO THE ACTION, IS OVER 18 YEARS OF AGE AND RESIDES IN THAT ON DEPONENT SERVED A TRUE COPY OF THE WITHIN JUDGMENT AND NOTICE OF ENTRY THEREOF (EACH OF) THE FOLLOWING NAMED DEFENDANT(S) AT THE ADDRESS(ES) INDICATED (FOR EACH):

BY DEPOSITING SAME ENCLOSED IN POSTPAID PROPERLY ADDRESSED WRAPPER(S), IN -A POST OFFICE- OFFICIAL DEPOSITORY UNDER THE EXCLUSIVE CARE AND CUSTODY OF THE UNITED STATES POSTAL SERVICE WITHIN NEW YORK STATE.

CIVIL COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
BRONX MARTIAL ARTS ACADEMY,

PLAINTIFF(S)

-AGAINST-

HOWARD WHITE,

DEFENDANT(S)

-----X

STATE OF NEW YORK)
COUNTY OF WESTCHESER) SS:

INDEX NO. 42508/11

AFFIRMATION OF MAILING OF
ADDITIONAL NOTICE OF SUIT

GARY KAVULICH, ESQ., BEING DULY SWORN HEREBY DEPOSES AND SAYS:

1. I AM THE ATTORNEY FOR THE PLAINTIFF(S) HEREIN.

2. THE ABOVE ENTITLED ACTION IS AGAINST A NATURAL PERSON AND IS BASED
UPON NON PAYMENT OF A CONTRACTUAL OBLIGATION.

3. ON 7/21/11, I MAILED A COPY OF THE SUMMONS AND COMPLAINT IN THE ABOVE
ENTITLED ACTION BY DEPOSITING THE ENVELOPE IN AN OFFICIAL DEPOSITORY UNDER
THE EXCLUSIVE CARE AND CUSTODY OF THE U.S. POSTAL SERVICE WITHIN NEW YORK
STATE. SAID MAILING WAS BY FIRST CLASS MAIL IN A POSTPAID ENVELOPE, PROPERLY
ADDRESSED TO THE DEFENDANT(S), THE ENVELOPE BORE THE LEGEND
"PERSONAL & CONFIDENTIAL" AND THERE WAS NO INDICATION ON THE OUTSIDE OF THE
ENVELOPE THAT THE COMMUNICATION WAS FROM AN ATTORNEY OR CONCERNED AN
ALLEGED DEBT. AT DEFENDANT(S):

~~X~~-----LAST KNOWN ADDRESS AT: HOWARD WHITE: 3208 TENBROECK AVENUE, PH,
BRONX, NY 10469-5011

-----PLACE OF EMPLOYMENT AT:

THE ENVELOPE BORE THE LEGEND "PERSONAL & CONFIDENTIAL" AND THERE
WAS NO INDICATION ON THE OUTSIDE OF THE ENVELOPE THAT THE
COMMUNICATION WAS FROM AN ATTORNEY OR CONCERNED AN ALLEGED DEBT.

-----A KNOWN ADDRESS OF THE DEFENDANT AT:

THIS ADDRESS IS NOT THE RESIDENCE OR PLACE OF EMPLOYMENT OF THE
DEFENDANT.

~~X~~THE AFOREMENTIONED MAILING:

~~X~~-----HAS NOT BEEN RETURNED UNDELIVERABLE BY POSTAL SERVICE.

-----WAS RETURNED UNDELIVERABLE BY POSTAL SERVICE AND WAS RE-SENT TO THE
DEFENDANT AT:



GARY KAVULICH, ESQ.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
BRONX MARTIAL ARTS ACADEMY,

Plaintiff,

-against-

HOWARD WHITE,

Defendant.
-----X

State of New York)

)ss:

County of Bronx)

Index No. 42508/11

File No. 14172

AFFIDAVIT OF FACTS
CONSTITUTING THE
AMOUNT DUE

Doug Pelinkovic, being duly sworn, swears under the pains and penalties of perjury:

1. That I am the Principal of the Plaintiff and, as such, have personal knowledge of the issues involved in this case.
2. That among my duties, but not limited to them, are overseeing membership issues including payments of members' dues.
3. That the Defendant signed a contract with the Plaintiff to, inter alia, use Plaintiff's gym facilities and that the Defendant breached his/her contract by not paying the dues owed under that contract.
4. That the Defendant's breach is continuing in that neither s/he nor any other source has paid the amount due.
5. That the Defendant owes the Plaintiff \$705.00 plus interest from February 1, 2010 plus costs pursuant to that contract.

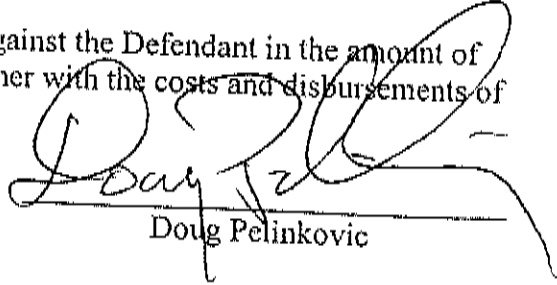
WHEREFORE, Plaintiff demands judgment against the Defendant in the amount of \$705.00 with interest from February 1, 2010 together with the costs and disbursements of this action.

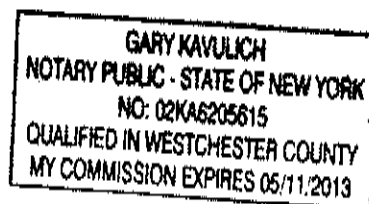
Dated: October 18, 2011

Sworn to before me this

18th day of October, 2011

Notary Public


Doug Pelinkovic



CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
BRONX MARTIAL ARTS ACADEMY,

Index No. 42508/11
File No. 14172

Plaintiff,

-against-

**AFFIDAVIT OF
INVESTIGATOR**

HOWARD WHITE,
[REDACTED] 5887

Defendant(s).
-----X

STATE OF NEW YORK)
)SS.:
COUNTY OF WESTCHESTER)

I am over 18 years of age, am not a party to this action and reside in Westchester County, State of New York.

I have been requested by Kavulich & Associates, P.C. attorney's for the Plaintiff, to make an investigation to ascertain if the Defendant Howard White, is at the present time in military service for the purpose of entry of judgment.

On October 12, 2011, I Denise Miranda, contacted the Defense manpower Data Center concerning the Defendant Howard White's military status.

I inputted the Defendant's name and social security number, as provided by the Defendant him/herself, into the Defense Manpower Data Center.

Under the Defendant's social security number I received an affidavit from the Defense Manpower Data Center stating that the said Defendant is not currently in the military service of the United States and the State of New York (National Guard).



Denise Miranda

Sworn to before me this
12th day of October, 2011



Notary Public

Gary Kavulich
Notary Public- State of New York
No. 02KA6205615
Qualified in Westchester County
My Commission Expires 05/11/2013

Department of Defense Manpower Data Center

Oct-12-2011 10:51:01



Military Status Report
 Pursuant to the Service Members Civil Relief Act

< Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
WHITE	HOWARD	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
 Department of Defense - Manpower Data Center
 1600 Wilson Blvd., Suite 400
 Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:5N9644AKD6

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

-----X
BRONX MARTIAL ARTS ACADEMY,

Plaintiff,

-against-

HOWARD WHITE,

Defendant.
-----X

Index No.

File No. 14172

42508

SUMMONS

Place of Venue is designated
as Plaintiffs' Place of
Business:

1051 Allerton Avenue
Bronx, NY 10469

To the above named Defendant(s):

YOU ARE HEREBY SUMMONED to appear in the CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF BRONX at the office of the Clerk of the said Court at 851 Grand Concourse, Bronx, NY 10451 to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with the summons, to serve a notice of appearance on the Plaintiff's attorney within (20) days after the service of this summons, exclusive of the day of service or within 30 days after the service in complete if this summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: June 9, 2011

FEE PAID

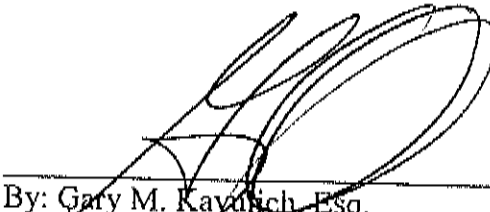
JUN 20 2011

**CIVIL COURT
BRONX COUNTY**

Defendant's Address:

Howard White

3208 Tenbroeck Avenue, PH
Bronx, NY 10469-5011


By: Gary M. Kavulich, Esq.
Attorney for Plaintiff

Kavulich & Associates, P.C.
181 Westchester Ave., Suite 500C
(914) 355-2074

Note: The law provides that: (a) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If the summons is served by any means other than personal delivery to you within the City of New York, you must appear and answer within THIRTY days after proof of service thereof is filed with the Clerk of this Court.

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from the Defendant for breach of contract in the sum of \$705.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the Defendant for goods and services provided by Plaintiff to Defendant in the sum of \$705.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the Defendant for unjust enrichment in the sum of \$705.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

FOURTH ACTION: Plaintiff seeks to recover damages in the amount of \$705.00 from the Defendant for account stated as the aforesaid sum has been duly demanded and has gone unpaid, together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

FIFTH ACTION: Plaintiff seeks to recover damages from the Defendant in the sum of \$705.00 in quantum meruit together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

SIXTH ACTION: Plaintiff seeks to recover damages from the Defendants in the sum of \$232.65 representing reasonable attorney's fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE: Plaintiff demands judgment (A) on the First Action in the sum of \$705.00 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just; (B) on the Second Action in the sum of \$705.00 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just; (C) on the Third Action in the sum of \$705.00 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just; (D) on the Fourth Action in the sum of \$705.00 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just; (E) on the Fifth Action in the sum of \$705.00 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just. (F) on the Fifth Action in the sum of \$232.65 plus interest from February 1, 2010, together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

AFFIDAVIT OF SERVICE
CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 42508/11
Filed: _____

Attorneys: Kavulich & Associates, P.C.

Address: 30 Church Street, Suite 26, New Rochelle, NY 10801

File No. 14172

BRONX MARTIAL ARTS ACADEMY,

vs.

HOWARD WHITE,

State of New York County of Nassau SS:

Aston G. Evans II, being duly sworn deposes and says:

Deponent is not a party herein, is over 18 years of age. On July 1, 2011 at 3:16p.m.

At: 3208 Tenbroeck Avenue, PH, Bronx, NY 10469-5011 served the within Summons and Complaint on: HOWARD WHITE, Defendant therein named

Individual ☐ By delivering a true copy of each to said recipient: deponent knew the person served to be the person described as said person therein.

Corporation ☐ By delivering to and leaving with _____ and that deponent knew the person so served and authorized to accept service on behalf of the Corporation

Suitable Age Person ☒ By delivering a true copy of each to a person of suitable age and discretion
Said premises is recipients ☐ actual place of business ☒ dwelling house within the state.

Affixing to Door ☐ By affixing a true copy of each to the door of said premises, which is recipients ☐ actual place of business ☐ dwelling house (place of abode) within the state

Mail Copy ☒ On July 2, 2011 deponent completed service under the last two sections by depositing a copy of the Summons and Complaint to the above address in a 1st Class properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Deponent was unable, with due diligence to find the recipient or a person of suitable age and discretion having called thereat:

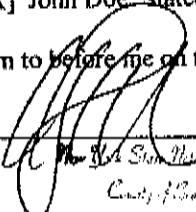
On the day of at
On the day of at
On the day of at

Description A description of the Defendant, or other person served on behalf of the Defendant
☐ Sex: M Color of skin: BLK Color of Hair: BLK Age: 45-50 Height: 5'10" Weight: 210LBS

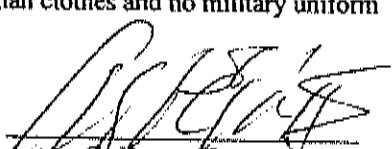
Military Svce ☒ Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or of the State of New York and was informed that the recipient is not. Recipient wore civilian clothes and no military uniform

Other ☒ "John Doe" stated that the Defendant is not in the military.

Sworn to before me on this 2 day of 7-11



Notary Public
County of Bronx
City of New York
Lic. No. 015112002316
Commission Expires June 1, 2014


Aston G. Evans II
LIC# 1220069

2011 JUL 14 PM 3:00

Civil Court of the City of New York

County of BRONXPart 34Index Number 42508/11

Motion Cal. # _____ Motion Seq. # _____

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers

Numbered

Notice of Motion and Affidavits Annexed.....

Order to Show Cause and Affidavits Annexed.....

Answering Affidavits.....

Replying Affidavits.....

Exhibits.....

Other.....

BRONX MARTIAL ARTS ACADEMY

Claimant(s)/Plaintiff(s)/Petitioner(s)
against

Howard White

Defendant(s)/Respondent(s)

Upon the foregoing cited papers, the Decision/Order on this Motion to order to showcause seeking vacatur of the instant judgment is as follows:GRANTED ON CONSENT to the extent that the judgment
is vacated and Defendant's proposed answer annexed
therein is deemed served and filed.A Trial is scheduled FOR 7/16/15Any/all efforts by Bronx Martial Arts to enforce
the ~~2011~~ default judgment are permanently stayed
This constitutes the decision/order of
this courtENTERED
BRONX COUNTY

MAY 29 2015

Civil Court
of the
City of New York5/27/15
Date

Judge, Civil Court

JUDGE ANTHONY CANNATARO

page 12

34
DIY
①

Civil Court of the City of New York
County of Bronx

Index Number: CV-042508-11/BX

Bronx Martial Arts Academy
-against-
Howard White

ORDER TO SHOW CAUSE

To vacate the defendants default, and any judgment, lift restraints and executions, order restitution and dismiss or stay the action for 90 days or restore to the calendar or allow a proposed answer

UPON the annexed affidavit of Howard White, sworn to on March 31, 2015, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

Bronx Civil Court
851 Grand Concourse
Bronx, NY 10451
Part 34C - Room 504

on April 14th, 2015 at 9:30 AM

or as soon thereafter as counsel may be heard, why an order should not be made granting any of the following relief as the court deems appropriate:

Vacating the defendants default and any judgment, lifting restraints and executions, ordering restitution or dismissing or staying the action for 90 days or restoring the action to the calendar or allowing a proposed answer.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s):
(Judge to Initial)

Sheriff or Marshal:
(Judge to Initial)

DM ✓ by Personal Service by "In Hand Delivery"
✓ by Certified Mail, Return Receipt Requested
✓ by First Class Mail with official Post Office
Certificate of Mailing

DM ✓ by Personal Service by "In Hand Delivery"
✓ by Certified Mail, Return Receipt Requested
✓ by First Class Mail with official Post Office
Certificate of Mailing

on or before April 6th, 2015, shall be deemed good and sufficient

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney or party:

~~Howard White (Def), at 3208 Tenbroeck Avenue, Bronx, NY 10469~~

Kavalach & Associates PC
181 Westchester Avenue
Suite 500C
Port Chester, N.Y. 10573
March 31, 2015

DATE

Sheriff/Marshal:

Marshal of the City of New York
Biegel, Stephen, Marshal
109 W 38 Street
Suite 200
New York, NY 10018-3615

DM

Hon. Donald A. Miles, Civil Court Judge (NYC)

2015 APR -2 AM 10:15

CIVIL COURT

4/16/15 Adj. to 5/29.

JOSEPH E. CAPELLA

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

bronx martial arts academy,
Plaintiff,

– against –

Howard White,
Defendant.

Index No. 42508-11

**AFFIDAVIT IN SUPPORT OF AN
ORDER TO SHOW CAUSE
To Vacate a Judgment For Failure
to Answer**

Movant's address:
3208 tenbroeck ave
bronx, NY, 10469

State of New York, County of Bronx ss.:

HOWARD WHITE, being duly sworn, deposes and says:

1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment, and dismiss this case for lack of personal jurisdiction pursuant to CPLR 5015(a)(4).
2. The court lacks personal jurisdiction because the Summons and Complaint were not served properly. Hello Judge I never received any mailings from this business or phone calls. I asked them after I had paid for my son to go to a introductory class that he did not want to come back. The monies I paid to them were never returned and the lady that works for bronx Martial arts Academy assured me that she had taken care of the paper work. I got sued for money that they never returned to me and my son never went back to that place not even one time.
3. Alternatively, the default judgment should be vacated pursuant to CPLR 5015(a)(1) and the case restored to the calendar and the attached Proposed Answer deemed timely filed.
4. I did not file an answer to the Complaint with the court because of the following excusable default:
 - a. I never received the court papers.

b. As I stated before in my other answer no papers were ever sent to me and the charge on my credit cards for my son going to there school after I cancelled with them was never returned. I just found out about this yesterday as my job notified me that some mashalls office had sent in papers to them on 3/26/2015. This is real extortion and I will bring a law suit against them as there stealing honest peoples monies. I have also reported them to the better business bureu.

5. I have the following meritorious defense(s):

- a. I do not owe the money.
- b. The contract is unfair (unconscionable).
- c. The Plaintiff has been unjustly enriched.
- d. Violation of the duty of good faith and fair dealing.
- e. Yes the Plaintiff should have returned all monies taken off my credit card because my son never went back to there school after the introductory class. I cancelled my son coming back there and the lady assured me that the monies would be sent back onto my card. This did not happen. I will bring a civil suit against them for pain and suffering and also for making me loose money after having to take time off from my job to come take care of this.

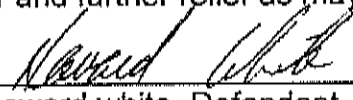
6. I want to tell the judge the following: Hello Judge its not up to you I know to stop businesses like this but I will fight the fight against this company for if they did this to me how many other families may have gone through this but did not know how to go

about fighting the injustice that is associated with this business. I tried to do something for my child and it has now turned into a nightmare.

7. I receive veteran's benefits, which are exempt from collection.
8. I have not asked for a previous Order to Show Cause in this case.
9. **My salary has been garnished. I am employed at CompuCom Systems.**

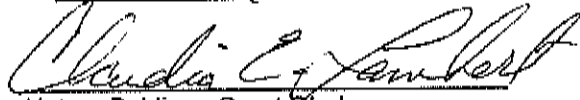
Relief

10. WHEREFORE, I request that the judge vacate any judgment, lift any and all restraints and executions, order restitution, and upon vacatur, dismiss this case for lack of personal jurisdiction, or in the alternative, deem the attached Proposed Answer timely filed, restore the case to the calendar, grant me permission to serve these papers myself, and grant me such other and further relief as may be just.


Howard white, Defendant

Sworn to before me this 31st day

of March, 2015.


Notary Public or Court Clerk

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

Index No. 42508-11

bronx martial arts academy,
Plaintiff,

**PROPOSED ANSWER CONSUMER
CREDIT TRANSACTION**

– against –

Howard White,
Defendant.

Movant's address:
3208 tenbroeck ave
bronx, NY, 10469

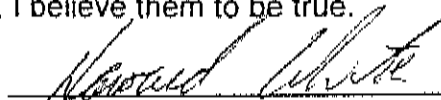
HOWARD WHITE, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. The contract is unfair (unconscionable).
4. The Plaintiff has been unjustly enriched.
5. Violation of the duty of good faith and fair dealing.
6. Yes the Plaintiff should have returned all monies taken off my credit card because my son never went back to there school after the introductory class. I cancelled my son coming back there and the lady assured me that the monies would be sent back onto my card. This did not happen. I will bring a civil suit against them for pain and suffering and also for making me loose money after having to take time off from my job to come take care of this.
7. I receive veteran's benefits, which are exempt from collection.
8. I have the following counterclaim(s): I want all back all monies paid to them off my credit card as my son never went back to there school I aslo want any monies already taken out my check. I also want my days pay for having to come here to take care of something that they promised me was taken care of. after all these years I am now going through this garbage as the only converstaion in relationship to this was taken by me. I believe this company to be unjust and unfair to eople and i will fight them to the end. I am seeking \$2,126.92.

VERIFICATION

State of New York, County of Bronx ss.:

HOWARD WHITE, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.


Howard white, Defendant

Sworn to before me this 31st day

of March, 20 15.


Notary Public or Court Clerk

CASE SUMMARY

Court:	Bronx County Civil Court	Plaintiff(s):	Bronx Martial Arts Academy
Index Number:	CV-042508-11/BX	vs.	
Case Type:	Civil	Defendant(s):	Howard White
Filed Date:	06/20/2011		
Classification:	General		
Status:	Active		
Cause(s) of Action:	Monies Due		

(P) Bronx Martial Arts Academy
Kavulich & Associates PC - 181 Westchester Avenue, Suite 500C, Port Chester, NY 10573, (914) 355-2074 ext:

(D) Howard White - 3208 Tenbroeck Avenue, Bronx, NY 10469

PAPERS RECORDED

06/20/2011 Summons and Complaint (Attorney). Filed By: (P) Bronx Martial Arts Academy

10/27/2011 Judgment (Default Judgment), Seq 1. Filed Date: 10/27/2011, Total Judgment: \$944.87, Entered Date: 10/27/2011, Status: Vacated (06/01/2015). Creditor(s): (P) Bronx Martial Arts Academy, Debtor(s): (D) Howard White, Certificate of Disposition Printable Remarks: Vacated on 06/01/2015 As Per Order Signed By Judge Cannataro On 5/29/15

03/31/2015 Motion (Order to Show Cause), Seq 1, Court Date(s): 05/29/2015; 04/17/2015; 04/17/2015, Filed By: (D) Howard White, Relief: Vacate Judgment - Failure to Answer - DIY, Status: Decided (05/29/2015, Granted on Consent, Anthony Cannataro)

03/31/2015 DIY - Affidavit to Vacate a Default Judgment, Filed By: (D) Howard White

06/01/2015 Answer Filed (Self Represented), Filed By: (D) Howard White

APPEARANCE ACTIVITY

04/17/2015 Part 34 - Procedural Motions - Self Represented Litigant, Purpose: Motion (1) - Vacate Judgment - Failure to Answer - DIY, Outcome(s): Adjourned: 05/29/2015

04/17/2015 Part 34C - Procedural Motions - Self-Represented Litigant - Consumer, Purpose: Motion (1) - Vacate Judgment - Failure to Answer - DIY, Outcome(s): Rescheduled: 04/17/2015

05/29/2015 Part 34 - Procedural Motions - Self Represented Litigant, Judge: Anthony Cannataro, Purpose: Motion (1) - Vacate Judgment - Failure to Answer - DIY, Outcome(s): Granted on Consent

07/16/2015 Part 11 - Self Represented Non-Jury. Judge: Paul L. Alpert, Purpose: Trial: Bench, Outcome(s): Adjourned: 09/18/2015

09/18/2015 Part 11 - Self Represented Non-Jury. Purpose: Trial: Bench

This report reflects information recorded as of 09/18/2015 11:38 AM. Users should verify the accuracy of information by consulting original court records or sources. The Unified Court System is not responsible for consequential use of this data.

Civil Court of the City of New York
851 Grand Concourse
Bronx, New York 10451

Howard White
3708 Tenbroeck
Bronx NY 10469